



STATE OF MINNESOTA DEPARTMENT OF VETERANS AFFAIRS



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Minnesota Department of Veterans Affairs

Programs and Services Division

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received.

Proposed Amendments to Rules Governing Minnesota Department of Veterans Affairs Programs and Services, *Minnesota Rules*, Chapter 9055; and Repeal of *Minnesota Rules*, parts 9055.0010, 9055.0015, 9055.0020, 9055.0025, 9055.0030, 9055.0035, 9055.0040, 9055.0050, 9055.0055, 9055.0060, 9055.0070, 9055.0075, 9055.0080, 9055.0085, 9055.0090, 9055.0095, 9055.0100, 9055.0105, 9055.0110, 9055.0115, 9055.0120. Revisor's ID Number 4659.

Plain English Summary. This Dual Notice is the Minnesota Department of Veterans Affairs' (MDVA) legal notice of its intent to adopt amendments to its programs and services rules. The purpose of these rules is to update the procedures followed by the MDVA, Programs and Services Division when providing claims representation services and in administering the State Soldiers' Assistance Program (SSAP) and disbursing State Soldiers' Assistance Funding. These rules establish the eligibility requirements and the proofs and evidence necessary for a person to establish a right to benefits and services provided by law.

This notice provides an opportunity for the public to comment on the proposed rules. Anyone who would like to comment on the proposed rule language must submit written comment or a written request for a hearing on the proposed rules by the deadline identified below. The Subject of Rules section provides additional information about the proposed rules. If the proposed rules affect you in any way, the MDVA encourages you to participate in the rulemaking process.

Introduction. The MDVA intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on Wednesday July 28, 2021, the MDVA will hold a public hearing virtually using WebEx. The following information includes the website link, meeting number (access code) and meeting password, and other information you need to access and participate in the virtual hearing.

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This document will be made available upon request in an alternative format by contacting the MDVA Office for Diversity and Equality at 612-548-5961 or at diversity.mdva@state.mn.us.

Website for participants to enter the virtual hearing:

<https://minnesota.webex.com/webappng/sites/minnesota/meeting/download/5cf5cfc7445a49fda9a4631a912030c3?siteurl=minnesota&MTID=md5cf87343f4a42ca6176004f0f4ad25a>

Meeting number (access code): 1460 78 8257

Meeting password: wTxGBhHb828

Tap to join from a mobile device (attendees only)

+1-415-655-0003, 1460788257## United States Toll

Join by phone

+1-415-655-0003 United States Toll

Global call-in numbers

Join from a video system or application

Dial 1460788257@minnesota.webex.com

You can also dial 173.243.2.68 and enter the meeting number.

This information is also available on the MDVA rulemaking docket website at

<https://mn.gov/mdva/about/reports.jsp>.

An Administrative Law Judge will conduct the hearing starting at **9:30 am Thursday August 26, 2021**. The hearing will continue until all parties have been heard or until the Administrative Law Judge adjourns it. To find out whether the MDVA will adopt the rules without a hearing or if it will hold the hearing, you should contact the MDVA contact person identified below after **July 28, 2021**, the date comment period ends, and before **August 26, 2021**, the date of the hearing.

Subject of Rules and Statutory Authority. The MDVA proposes to amend Minnesota Rules, chapter 9055. The proposed rules establish the necessary regulations governing the conduct and operation of the Programs and Services Division of the MDVA. The rules are needed to effectively represent veterans and veterans dependents in claims for federal veterans benefits, and to efficiently administer the SSAP in a consistent and transparent manner while responsibly distributing state soldiers' assistance funding to veterans, veterans dependents, and eligible members of the armed forces. The proposed rules are the MDVA commissioner's response to needed changes in the administration of veterans programs and services and the disbursement of state soldiers' assistance funding driven mainly by changes in the demographic composition and the needs of the Minnesota veteran population and members of the armed forces. The proposed rules provide:

- Standard definitions used throughout the chapter;
- Establishment of the Claims and Benefit Divisions of MDVA Programs and Services;
- Application procedures and eligibility criteria;
- Procedures for calculating monthly household income and household assets;
- Maximum monthly household income and maximum household asset limits and maximum benefit amounts; and
- Procedures for administering the following individual SSAP activities:

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- The dental and optical program activities;
- The voucher deposit assistance program activity;
- The disaster relief program activity;
- The subsistence program activity;
- The veterans education program activity;
- The surviving children and spouses education activity; and
- The veterans relief grant program activity.

Availability of Rules. The proposed rules are published in the *State Register* after this notice, or they can be viewed on the MDVA's Rulemaking Docket website at <https://mn.gov/mdva/about/reports.jsp> and the Office of Administrative Hearings rulemaking e-Comments website at <https://minnesotaoah.granicusideas.com>. A free copy of the rules is also available upon request from the MDVA contact person identified below.

Statement of Need and Reasonableness. The statement of need and reasonableness (SONAR) summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The SONAR is available on the MDVA's Rulemaking Docket website at <https://mn.gov/mdva/about/reports.jsp> and the Office of Administrative Hearings rulemaking e-Comments website at <https://minnesotaoah.granicusideas.com>. A print copy is available for the cost of reproduction by contacting the MDVA contact person identified below.

Public Comments. You have until 4:30 p.m. on Wednesday, July 28, 2021 to submit written comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comments must be in writing and received by the deadline. Submit written comments to the Office of Administrative Hearings Rulemaking eComments website at <https://minnesotaoah.granicusideas.com>. If it is not possible to use the eComments website, comments may be submitted in person, via United States mail, or by facsimile addressed to Administrative Law Judge Kimberly Middendorf at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620 or at 651-539-0310 (fax). Any questions about submitting comments via the eComments website should be directed to Denise Collins, Office of Administrative Hearings, telephone 651-361-7875 and denise.collins@state.mn.us. All comments received are public and will be available for review at the Office of Administrative Hearings, and on the MDVA's Rulemaking Docket website at <https://mn.gov/mdva/about/reports.jsp>.

Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

Modifications. The MDVA may modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. The modifications must be supported by comments and information submitted to the MDVA or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the MDVA follows the procedure under *Minnesota Rules*, part 1400.2110.

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Request for a Hearing. In addition to submitting comments, you may also request that the MDVA hold a hearing on the proposed rules. You have until 4:30 p.m. on Wednesday, July 28, 2021, to submit your written request for a hearing to the Office of Administrative Hearings rulemaking eComments website at <https://minnesotaoah.granicusideas.com>. If it is not possible to use the eComments website, a hearing request may be submitted in person, via United States mail, or by facsimile addressed to Administrative Law Judge Kimberly Middendorf at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620 or at 651-539-0310 (fax). Your written request for a public hearing must include your name and postal address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the MDVA cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the MDVA will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the MDVA must give written notice of this to all persons who requested a hearing, explain the actions the MDVA took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MDVA will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The MDVA reserves the option to remove any section of the rule that may be controversial and to proceed without a hearing on the noncontroversial part of the proposed rules.

Cancellation of Hearing. The MDVA will cancel the hearing scheduled for Thursday August 26, 2021, if the MDVA does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the MDVA will notify you before the scheduled hearing whether the hearing will be held. You may also call the MDVA contact person identified below after July 28, 2021 to find out whether the hearing will be held. On the scheduled day, you may check for whether the hearing will be held by checking the MDVA's Rulemaking Docket website at <https://mn.gov/mdva/about/reports.jsp>.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, the MDVA will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The MDVA will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard or until the ALJ adjourns it. Administrative Law Judge, the Honorable Judge Kimberly Middendorf is assigned to conduct the hearing. Judge Middendorf's legal assistant, Michelle Severson, can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone (651) 361-7874, and fax (651) 539-0310 or Michelle.Severson@state.mn.us.

Hearing Procedure. If the MDVA holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in

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the hearing record for five working days after the public hearing ends. At the hearing the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the agency and any interested person may respond in writing to any new information submitted. No one may submit new evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge via the Office of Administrative Hearings rulemaking eComments website at <https://minnesotaoah.granicusideas.com> no later than 4:30 p.m. on the due date. If using the eComments website is not possible, you may submit post-hearing comments in person, via United States mail, or by facsimile addressed to Administrative Law Judge Middendorf at the address or facsimile number listed in the Notice of Hearing section above.

All comments or responses received will be available for review at <https://minnesotaoah.granicusideas.com> or at the Office of Administrative Hearings. After the close of the post-hearing comment and rebuttal period, all comments and responses will be available for review at the MDVA offices and on the MDVA Rulemaking Docket website at <https://mn.gov/mdva/about/reports.jsp>. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

Adoption Procedure if No Hearing. If no hearing is required, the MDVA may adopt the rules after the end of the comment period. The MDVA will submit the rules and supporting documents to the Office of Administrative Hearings for a legal review. You may ask to be notified of the date the rules are submitted to the office. If you want to receive Notice of this, to receive a copy of the adopted rules, or to register with the MDVA to receive Dual Notice of future rule proceedings, submit your request to the MDVA contact person listed below.

Adoption Procedure after a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date that the MDVA adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the MDVA contact person listed below.

Statutory Authority: The statutory authority to adopt the rules is *Minnesota Statutes*, sections 196.04, 196.05, 197.03, 197.05, 197.06, 197.75 and *Minnesota Statute*, section 14.06(a).

Agency Contact Person. The MDVA contact person is Eric Eversman at the MDVA, 20 West 12th Street, Saint Paul, Minnesota 55155, telephone (651) 757-1558; mobile (612) 219-6067; or email: eric.eversman@state.mn.us. You may also call the MDVA at (651) 296-2562.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact Valerie Klitzke at

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the Minnesota Department of Veterans Affairs, 20 West 12th Street, Room 206, St. Paul, Minnesota 55155, telephone (612) 548-5961 or email: Diversity.MDVA@state.mn.us

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

June 11, 2021

A handwritten signature in black ink, appearing to read 'L. Herke', is positioned above the typed name and title.

Signed by: Larry Herke, Commissioner on
June 11, 2021

Minnesota Department of Veterans Affairs
20 West 12th Street, Saint Paul, MN 55155

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